



**IT IS ORDERED as set forth below:**

**Date: April 17, 2014**

*C. Ray Mullins*

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**C. Ray Mullins  
U.S. Bankruptcy Court Judge**

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UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE:  
NANCY AUSTIN,  
  
DEBTOR.

CASE NO. 10-95385-CRM  
  
CHAPTER 13 PROCEEDING

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CITIMORTGAGE, INC.,  
MOVANT,

CONTESTED MATTER

VS.  
NANCY AUSTIN,  
NANCY J. WHALEY, Trustee,  
  
RESPONDENTS.

**CONSENT ORDER**

The parties named above have reached an agreement with regard to the Motion by CITIMORTGAGE, INC. to modify the stay to permit foreclosure on real property known as Property, 4579 GLENFOREST DRIVE NE, ROSWELL, GA 30075, which motion was scheduled for hearing on March 25, 2014 at 09:30 AM. Debtor and Movant desire that their agreement be made the Order of the Court; accordingly, it is hereby ORDERED:

The Movant and Debtor acknowledge that the total post petition arrearage through March, 2014 is

\$9,984.42 (1 payment @ \$1,435.01, 6 payments @ \$1,433.64, less \$52.43 in suspense). On or before April 4, 2014, shall pay to Movant an arrearage payment in the sum of \$2,867.28. On or before April 15, 2014, and continuing on the fifteenth day of each month thereafter, through and including March 15, 2015, Debtor shall pay to Movant an arrearage payment in the sum of \$593.10 for the purpose of becoming current in said post petition mortgage installments. This payment will be made in addition to the regular monthly payment which is due on the first day of each month. Debtor is to resume making regular monthly mortgage payments beginning April 1, 2014. No significant equity exists in the real property which is the subject of Movant's motion. All payments should be mailed to Movant as follows:

CitiMortgage, Inc.  
P.O. Box 183040  
Columbus, OH 43218-3040

Upon the delinquency of the Debtor in the payment of any sum specified herein or any regular monthly mortgage payments which come due according to the Note & Deed for a period of six months from the entry of this order, Creditor may be permitted to recover and dispose of the Collateral pursuant to applicable state law only after submitting a Delinquency Motion (as more particularly described below) and the entry of an order lifting the automatic stay of 11 U.S.C. §362 in the following manner:

(A) Counsel for Movant shall serve both Debtor and Debtor's counsel of record with written notice of the specific facts of the delinquency (the "Delinquency Notice"); said notice may be contained in a letter but shall

(1) state that Debtor may cure the delinquency within ten (10) calendar days of receipt of said notice, and

(2) shall specifically provide the correct street address for mailing or delivering such payment;

Pursuant to this order, Debtor shall be presumed to have received the Delinquency Notice on the fifth (5th) calendar day following the mailing of said notice by Counsel for Creditor; provided, however, that

(a) the Delinquency Notice is properly addressed to the Debtor at the address set forth on the Distribution List attached to this Order pursuant to BLR 9013-3(c)(2) NDGa, unless Creditor or Counsel for Creditor receives notice in writing of a change in Debtor's address within a reasonable time prior to mailing of the Delinquency Notice; and

(b) the Delinquency Notice is not returned to Counsel for Movant by the U. S. Postal Service as undeliverable by reason of improper address.

(B) If Debtor fails to cure the delinquency within ten (10) days of receipt of said written notice, Counsel for Creditor may present to the Court, after service on both the Debtor and Debtor's counsel:

- (1) a motion, which must contain allegations of the specific facts of the delinquency; provided, however, that, instead of alleging the facts of the delinquency in the motion (the averments of which are subject to Rule 9011), the motion may be accompanied by an affidavit from Movant setting forth the specific facts of the delinquency;
- (2) a copy of the Delinquency Notice;
- (3) a proposed order (the motion, copy of the Delinquency Notice and the proposed order are herein collectively referred to as the "Delinquency Motion").

Upon presentation of said Delinquency Motion to Court may enter an order lifting the stay as to the Collateral, without further hearing. If any proceeds remain from the foreclosure sale in excess of the Movant's lawful secured indebtedness, reasonable fees and foreclosure costs, Movant's counsel shall immediately notify the Trustee's Office and Debtor's counsel of same, and shall promptly forward such excess proceeds to the office of the Trustee. As part of this Consent Order, Movant has advised Debtor, Debtor's counsel, and the Chapter 13 Trustee that, in the event Debtor fails to comply with the terms of this Order, Movant intends to request in its Default Motion that the provision of Fed. R. Bankr. P. 3002.1 will not apply to Movant upon entry of an Order Lifting the Automatic Stay. The Court has made no determination as to the applicability of Fed. R. Bankr. P. 3002.1 should an Order Lifting Stay be entered

in the future. It is further

ORDERED that the Clerk of Court shall serve this Order to the parties set forth on the distribution list attached hereto.

[END OF DOCUMENT]

Order presented by:

/s/ S. Andrew Shuping, Jr.  
S. ANDREW SHUPING, JR.  
Attorney for Movant  
State Bar No. 644475  
SHUPING, MORSE & ROSS, L.L.P.  
6259 Riverdale Road  
Riverdale, GA 30274  
770-991-0000

Consent and Agreement:

/s/ Nancy Austin  
Nancy Austin, Pro-Se

No Opposition:

/s/ Julie M. Anania  
JULIE M. ANANIA  
Attorney for Chapter 13 Trustee  
State Bar No. 477064  
303 Peachtree Center Avenue  
Suite 120  
Atlanta, GA 30303  
678-992-1201

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
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IN RE:  
NANCY AUSTIN,  
  
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MOVANT,

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VS.  
NANCY AUSTIN,  
NANCY J. WHALEY, Trustee,  
  
RESPONDENTS.

**DISTRIBUTION LIST**

This Distribution List is pursuant to a Consent Order that has been reached in the above styled case.

S. Andrew Shuping, Jr.  
6259 Riverdale Road  
Riverdale, GA 30274

NANCY AUSTIN  
4579 GLENFOREST DRIVE NE  
ROSWELL, GA 30075

ERIC CARTER  
The Carter Law Firm Group, P.C.  
191 Peachtree Street, NE  
suite 3300  
Atlanta, GA 30303

NANCY J. WHALEY  
303 Peachtree Center Avenue  
Suite 120  
Atlanta, GA 30303